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REVIEW OF PRIORITY THEMES

Links between transnational organized crime and terrorist crimes

Report by the Secretary-General

Summary

The present report provides an overview of differences and similarities between transnational organized crime and terrorist crimes, as well as a summary of the responses received from States pursuant to Economic and Social Council resolution 1995/27, section II. Highlighting recent international initiatives against terrorist crimes, the report concludes that, while links between transnational organized crime and terrorist crimes are more circumstantial than institutional, both forms of crime present formidable challenges to the international community and require improved international cooperation.

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INTRODUCTION

1. On the recommendation of the Commission on Crime Prevention and Criminal Justice at its fourth session, the Economic and Social Council adopted resolution 1995/27, on the implementation of the resolutions and recommendations of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. In section II of that resolution, the Council called upon institutes and centres for crime prevention and criminal justice to devote the required attention to studying the links between transnational organized crime and terrorist crimes, their effects and appropriate means for countering them and requested the competent United Nations bodies to collect information on such links. In the same section of that resolution, the Council decided to establish an open-ended intergovernmental working group to consider, at the fifth session of the Commission, the views of Member States to be sought by the Secretary-General in the implementation of Ninth Congress resolution 3, paragraph 1.[1]

2. The African Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Kampala from 14 to 18 February 1994, in section III of its resolution entitled "Effective action against national and transnational crime" (A/CONF.169/RPM.2), urged States to cooperate in identifying new forms of organized crime, including criminal terrorist acts aimed at achieving political goals through destabilizing democratic societies by violent acts. The Ninth Congress, in its resolution 4,[1] recommended that the Commission include an item entitled "The links between transnational organized crime and terrorist crimes" on the agenda of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

3. Organized crime and terrorism have figured prominently in the priorities of the international community in recent times, as evidenced by addresses given at the summit of heads of State and Government convened in New York in October 1995 to celebrate the fiftieth anniversary of the United Nations. The General Assembly has also dealt with these issues, in part building on the accomplishments of the Ninth Congress and, particularly with respect to organized crime, of the World Ministerial Conference on Organized Transnational Crime, held at Naples from 21 to 23 November 1994.

4. Pursuant to Council resolution 1995/27, section II, the Secretariat requested the views of States on the issue of links between organized transnational crime and terrorist crimes. Replies were received from Argentina, Australia, Austria, Belarus, Brazil, Chile, Cuba, Finland, France, Gabon, Germany, Holy See, Japan, Iran (Islamic Republic of), Iraq, Malaysia, Mauritius, Philippines, Portugal, Qatar, Republic of Korea, Spain, Turkey and United States of America.

5. The present report contains a summary of the replies received, as well as an overview of the more recent international initiatives against terrorist crimes. Pursuant to Council resolutions 1995/11 and 1995/27, section II, the Commission will also have before it a report of the Secretary-General on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (E/CN.15/1996/2), in which the current situation of organized transnational crime is discussed in detail.

I. DIFFERENCES AND SIMILARITIES BETWEEN TRANSNATIONAL ORGANIZED CRIME AND TERRORIST CRIMES

6. Between 1993 and 1994 (the latest year on which data are available), a decline of 25 per cent in incidents of international terrorism* was recorded. In 1994, there were 321 international terrorist incidents, which left 321 persons dead and 663 persons wounded. Of those incidents, 115 were registered in the Middle East, 88 were in western Europe, 58 were in Latin America and 36 were in Africa and Asia.[2] While left-wing terrorism is on the decline, domestic ethnic, pseudo-religious and racist terrorism appear to have been on the increase since 1989.

7. There is growing apprehension that terrorist victimization will move beyond a few victims per incident into hundreds of victims. Indicative of a trend towards mass victimization was the car bomb attack on a United States government building at Oklahoma City on 19 April 1995, which claimed the lives of 169 persons and injured 600 more. The bombing of the World Trade Center in New York in February 1993, resulting in 6 dead and approximately 1,000 wounded, would have been a major disaster if the towers, which had more than 50,000 people in them, had collapsed. It is worth noting, however, that the bombs used in the above-mentioned incidents did not involve high technology: fertilizers and fuel were the ingredients of the bomb used at Oklahoma City and a bomb made from sulphuric acid and potassium worth 40 dollars caused $65 million in damage to the World Trade Center.[3] The conflict between Chechen separatists and the Government of the Russian Federation resulted in acts of hostage-taking involving hundreds of civilians at Budyonnovsk and Kizlyar (later Pervomajskoye) in the Russian Federation and on a passenger ship *en route* from Trabzon, Turkey, to Sochi, Russian Federation, in the Black Sea in 1995 and 1996.[4] An ominous threshold was passed in Japan on 20 March 1995, when a religious sect used nerve gas against passengers of the Tokyo underground, killing 12 persons and injuring 5,000. The Japanese police discovered that the laboratory of the sect had the capacity to produce 60-80 kilograms of poison gas. A notebook found during the investigation contained hints that attempts had been made to acquire nuclear weapons from the Russian Federation.

8. The danger of terrorist groups turning to nuclear weapons is still considered small. The possibility, however, to encapsulate conventional explosives with radioactive materials such as caesium-137 or cobalt-90, in order to contaminate government offices or business centres for decades, may already be within the capabilities of some terrorist groups, particularly if such groups manage to secure institutional and financial support.

9. An analysis of the methods of operation and the objectives of criminal organizations and terrorist groups shows certain differences and similarities that are important for a better understanding of the problems that the two forms of criminal activity pose and of the links between them. Since organized transnational crime and, to a lesser extent, terrorist crimes are considerably complex types of criminal behaviour, the differences and similarities set out below can be described only in general terms.

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*In the present report, international terrorism is understood to mean terrorism involving citizens or the territory of more than one country

10. Terrorist groups are usually highly motivated from an ideological point of view. Organized criminal groups strive for a bigger share of illicit and licit markets and, contrary to terrorist groups, are generally not concerned with promoting any particular ideological system. Terrorist groups are generally interested more in social and political change (or, in the case of some groups, maintaining the status quo or returning to the status quo ante) than in material enrichment for themselves, in contrast to most members of organized criminal groups (though the latter might also engage in violence for status and excitement). When brought to trial, terrorists usually admit to their deeds, though they refuse to acknowledge them as crimes, and use the courtroom as a forum for political declarations. Members of organized criminal groups generally employ every possible defence and try to downplay the degree of their own involvement in crime. Terrorist groups strive for an increased political following. For organized criminal groups this is less relevant. As a consequence, media coverage is generally sought by terrorists while avoided by organized criminal groups. Terrorists compete with Governments for legitimacy in gaining the moral support of the public, since one of their key objectives is to acquire support for their cause. Organized criminal groups do not play to mass audiences, since their objectives are better served if their activities are kept largely concealed from the public. Furthermore, victimization resulting from terrorism is generally more indiscriminate than that resulting from organized crime. The link between victim and motive is much stronger in the case of organized criminal groups than it is in the case of terrorist groups. While organized criminal groups on a given territory often fight each other in gang wars, this is less common among rival terrorist groups. A rival terrorist group, however, may be inclined to eliminate moderate competing political groups with the same goals in order to become the only group representing their cause. Often there is division of labour between more moderate front organizations and backstage terrorist groups.

11. Members of terrorist organizations, like members of criminal organizations, are generally rational actors.* For the most part, both act purposefully though they might be less than realistic in their assessment of a given social or political situation. Criminal organizations and terrorist groups alike use violence and leave victims in their wake. Both intimidate by threatening to use physical violence, though terrorist violence, by definition, assaults basic moral norms to produce disproportionate effects. Terrorist violence is triangular: certain people are victimized in order to make others comply. Some organized criminal groups also use this triangular relationship in their activities. Organized criminal groups involved in prostitution, for instance, offer women jobs in other countries. Once there, the women are forced into prostitution; if they resist, they are told that their family members back home will be victimized. Some of the activities of organized criminal groups are often referred to as victimless crimes, in that no direct loss of life is involved as, for example, in most forms of economic crime. In contrast, terrorist crimes are never victimless, though there may be incidental terror without violence based on a prior reputation for actual terror production. Members of criminal organizations have posed as members of terrorist groups, capitalizing on the generally more ferocious reputation enjoyed by the latter. Occasionally this is also done to throw law enforcement officers off track.

12. Criminal organizations and terrorist groups sometimes use similar, though not entirely overlapping, tactics: kidnapping, assassination, extortion (either in the form of protection money or "revolutionary taxes"). The violence of organized criminal groups is generally more focused, yet some of the acts of violence performed by organized criminal groups are indistinguishable from those performed by terrorists. Kidnapping for ransom and bank robberies are crimes in which both organized criminal groups and terrorist groups are involved, especially in their early, purely predatory, stages. Criminal organizations have also been known to use de facto hostages to keep their business partners in line. In some cases, in order to prevent such business partners from revealing their connections to the police upon being apprehended, their family members are used as "human collateral".[5]

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*For supporting arguments and a list of nine similarities between terrorist and criminal actors, see M. Amir, "Political terrorism and common criminality: some preliminary considerations", *Violence, Aggression and Terrorism*, vol. 1, No. 4 (1987), pp. 377-378.

13. Both types of organizations resort to criminal activities to finance their operations. While the goals of terrorist groups are generally political and those of organized criminal groups are generally economic (making high profits fast with as little risk as possible), both need steady sources of income to be able to operate. The activities of terrorist groups aimed at raising funds are, by definition, illicit and the techniques used, at least in the early stages, closely approximate ordinary criminality.[6] Terrorist organizations, which are usually small to avoid detection, are even more dependent on crime for funding (unless they find a foreign sponsor) since they generally lack popular support. There are two types of material relationship that both terrorist groups and organized criminal groups have with their environment: a predatory type of relationship, where criminal activities such as kidnapping for ransom and armed robbery are involved; and a parasitic type of relationship, where the exploiting criminal or terrorist group extracts concessions or money without, however, incapacitating the source of income to an extent that would make the process self-liquidating. Leading academics have suggested that in the case of organized transnational crime, there is also the possibility of a symbiotic type of relationship, where there is a mutually profitable but generally uneasy relationship between the criminal organization and its target.[7] Such a symbiotic relationship cannot generally exist between terrorist groups and the government in power.

II. SUMMARY OF VIEWS OF STATES

14. Many of the issues mentioned above were raised by States in their responses to the Secretary-General's request for their views and information. States said that, regardless of their differences and similarities, both transnational organized crime and terrorist crimes required special attention by the international community. Emphasis was placed on more effective international cooperation.

15. Argentina stated that, on the occasion of two international conferences that it had hosted in 1995, namely the consultations on cooperation for the prevention and control of international terrorism, which had brought together States members of the Common Market of the Southern Cone (MERCOSUR) and others, and the Regional Ministerial Workshop on Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, held at Buenos Aires from 27 to 30 November 1995 (E/CN.15/1996/2/Add.1), delegates had stressed the importance of conceptually including terrorism among the various forms of organized transnational crime. On those occasions, representatives had agreed that the cellular structure, destructive effects and supragovernmental power of terrorist organizations did not make them different from organizations involved in illicit trafficking in drugs or arms. It was also agreed that there was a need to study the links between terrorist gangs and drug traffickers. Argentina stated that it was essential to encourage the study of an international instrument which, based on precedents set by International Civil Aviation Organization conventions, would establish legal standards for specific issues to assist countries in matters of extradition and the provision of assistance to victims of terrorist acts.

16. Australia pointed out the existence of an overlap of the activities mandated by the Council in its resolution 1995/27, section II, paragraph 10, and those mandated by the Council in its resolution 1995/11, paragraph 5. Both resolutions called for the establishment of intergovernmental working groups whose mandates appeared to be identical. Australia believed that the question of links between organized crime and terrorist crimes required careful consideration, which should begin with the study of the nature and extent of such links and should continue with the assessment of the threat posed by the identified links and the consideration of measures to combat the assessed threat.

17. Austria reported that it had never detected links between organized transnational crime and terrorist crimes and that its national legislation included recent amendments passed to deal more effectively with different forms of organized crime. Austria reiterated its firm commitment to participate in international cooperation in combating the use of the proceeds of crime, in particular organized crime, also in view of the risk that growing links might emerge with regard to financing of terrorist crimes.

18. Belarus indicated that it was experiencing a massive flow of illegal migrants and illicit trafficking, especially in firearms. Many of those criminal activities were carried out by organized criminal groups. The Government had enacted a series of legislative measures to improve investigation and international cooperation. Commenting favourably on the establishment of the intergovernmental working group, Belarus proposed that consideration should be given to the creation of a single computerized database with the aim of making information available to the United Nations crime prevention and criminal justice programme on any change in the country of residence of leaders of a transnational criminal group.

19. Brazil expressed its support for Council resolution 1995/27 and expressed its commitment to the themes covered therein. The Ministry of Justice was in the process of elaborating an agreement with Argentina on the exchange of information, the harmonization of pertinent legislation and the provision of mutual assistance in criminal matters, in order to facilitate the detection and deterrence of terrorist activities in frontier areas.

20. Chile stated that, since 1990, no official records had existed that would make it possible to confirm the existence of systematic links between national terrorist groups and transnational criminal organizations.

21. Cuba considered the content of Council resolution 1995/27 to be in line with the documents that had served as a basis for the formulation of the resolution. It added that the resolution did not run counter to its position on the subject. Consequently, it had no comments to offer.

22. Finland supported in principle the establishment of the intergovernmental working group, as the issues under examination deserved an open discussion in a public forum. It suggested that the working group should tackle the subject-matter mainly from the point of view of organized transnational crime, especially to find means to prevent and control terrorist acts carried out by organized criminal groups. Finland noted that, before drafting any type of legal instrument, the Commission should collect information on the links between organized transnational crime and terrorist crimes and should prepare a report on the information. Finland also conveyed comments of the European Institute for Crime Prevention and Control, affiliated with the United Nations, in which the European Institute had noted that its current work programme included a project on the analysis of the current status of transnational organized crime, as well as a review of means of prevention and control. That project had been initiated in 1993 and the European Institute had suggested that it would be possible to redirect it in such a way as to integrate into it aspects of terrorist crimes.

23. France was of the opinion that the fight against terrorism in all its forms and against organized transnational crime deserved equal attention. It did not favour, however, an amalgamation of the two issues, even if there might be common elements that should not be neglected by States. Examples of common elements were, according to France, the possibilities of financing terrorism by undertaking organized criminal activities, similar methods of operation, and the possibility of certain persons passing from one form of crime to the other. From that point of view, France was not opposing the analysis by the United Nations of those common elements, for the purpose of sharing experience and exchanging information. France pointed out that, while neither terrorism nor organized crime had been defined in an acceptable manner by the international community (and that was another common point), the fundamental motivation of terrorist acts seemed to be different from that of organized criminal activities. In fact, the intent of terrorist acts was to seriously disrupt public order, with a view to achieving political destabilization through intimidation or terror, while the primary objective of organized crime was the attainment of illicit profit. Citing the relevant distinctions made in its national legislation, and the way that the issue of terrorism was dealt with by its constitutional provisions related to asylum, France indicated that it was not opposed to sharing experiences and exchanging information on links between transnational organized crime and terrorism. It concluded that terrorism should not be reduced to simply another form of organized crime. It stated that, for those reasons, it placed a premium on a specific and concrete approach to the problem of terrorism through the conclusion of several conventions within the framework of specialized agencies of the United Nations.

24. Gabon submitted its national legislation by which acts of terrorism and criminal association were punishable.

25. Germany reiterated its reservations regarding the elaboration of any new international legal instrument on specific issues or areas in the field of combating transnational organized crime and suggested that the intergovernmental working group should examine existing international legal instruments with a view to implementing them fully. In addition, the working group might consider elaborating recommendations for appropriate adjustments or amendments to such instruments in case inadequacies or gaps should be identified.

26. The Holy See stated that it did not have any comments to provide on the matter.

27. The Islamic Republic of Iran reiterated its belief that it was necessary to make a clear distinction between (a) independence movements and the legitimate defence of land under foreign occupation and (b) terrorism. It proposed that efforts should be made by the international community to provide a precise definition of terrorist crimes. It considered deplorable the connections between terrorism and all forms of transnational crime, especially drug trafficking, money-laundering and economic crimes, and requested a more precise study of the connection between terrorist crimes and all sorts of transnational organized crimes. Suggesting that States should be encouraged to ratify the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[8] the Islamic Republic of Iran considered it useful to place more emphasis on extradition by concluding and expanding bilateral and multilateral agreements. It urged States to enact national legislation to combat terrorism and transnational crime. The Islamic Republic of Iran also encouraged the exchange of information and legal experience, as well as the undertaking of technical cooperation, expressing the belief that the Commission on Crime Prevention and Criminal Justice was the most suitable source for research and exchange of information on that matter. The Islamic Republic of Iran recommended that efforts should be made towards the drafting of a convention on transnational organized crime and that States should take appropriate measures to help and support the victims of terrorist violence.

28. Iraq stated that the competent national authorities had no remarks to make in respect of the issue.

29. In Japan, substantive links between transnational organized crime and terrorist crimes had not been observed and, consequently, the Government had not taken common action against those phenomena. Since Japan had observed that there were significant differences between transnational organized crime and terrorist crimes in the purpose, background, membership and forms of those offences, it did not consider it appropriate to examine common preventive measures for those two categories of crime. Japan was of the view that the appropriate approach in the intergovernmental working group would be to consider practical countermeasures for transnational organized crime and terrorist crimes individually, fully taking into account the differences that existed between them. Establishing a code of conduct or other legal instrument on the links between transnational organized crime and terrorist crimes was not considered to be an effective measure, in view of the fact that the meaning of the term "code of conduct", as used in Council resolution 1995/27, section II, paragraph 10, was not clear.

30. Malaysia noted that it was in agreement with the content of Council resolution 1995/27.

31. Mauritius noted that, although no links had yet been established between organized and terrorist crime on its territory, its national competent authorities considered such links to be more than a hypothesis in other regions, especially where powerful drug traffickers operated. Recalling that the international community had already adopted conventions, declarations and other legal instruments that imposed on every State the duty to abstain from acts of aggression and to prevent terrorism and assistance to terrorist activities, Mauritius felt that there was need for a code of conduct for States to prevent transnational organized crime and terrorist crimes.

32. The Philippines expressed its agreement with the provisions of Council resolution 1995/27 calling for the establishment of an open-ended intergovernmental working group on links between transnational organized crime and terrorist crimes.

33. Portugal was of the opinion that links might exist between terrorism and transnational organized crime, especially with regard to their methods and their effects on people and society. Portugal provided information about national legislative and law enforcement measures enacted to prevent and control terrorism and other forms of violence committed by organized criminal groups.

34. Qatar provided a comprehensive analysis of transnational organized crime and terrorist crimes.* It identified terrorism as the systematic and organized practice of terror, seeking to undermine the social structure through attacks against persons or groups of persons or through the perpetration of various acts of revenge. It noted that those who conducted their struggle against oppression within the context of international legality and who sought to liberate their land should not under any circumstances whatsoever kill innocent persons and terrify those who were peaceable. In its reply, Qatar also stressed that the task of defining terrorism was a profound and complex one. In addition to illustrating the main motives and targets of terrorism, Qatar presented a review of means of international cooperation that could be used to combat that phenomenon. It recommended that efforts should be intensified to make society aware of the dangers of organized crime, particularly economic crimes, and to take measures that would impede the undertaking of such forms of crime. Amendments should be introduced in national legislation, particularly in provisions relating to terrorism and kidnapping, and penalties for perpetrating such acts should become stiffer. Efforts should be made to strengthen international cooperation, taking into consideration various legal regimes and the criteria and principles of international law, in order to combat terrorist crimes and transnational organized crime. In addition to exchanging technical information and legal expertise in combating the use of the proceeds of crime, particularly organized crime, for the financing of terrorist crimes, judicial and legal cooperation should be strengthened, especially with regard to extradition through bilateral, regional and multilateral agreements or arrangements. Qatar also recommended that organized crime and terrorist crimes should be unequivocally condemned in all their shapes and forms, wherever they were committed and whoever their perpetrators might be, as they were crimes aimed at the elimination of human rights and basic freedoms and they threatened regional safety and security, as well as the stability of Governments; in addition, they had an adverse effect on the social and economic development of countries. Qatar emphasized the need for the collection of information by the competent agencies of the United Nations on links between transnational organized crime and terrorist crimes, in a cooperative and coordinated manner, establishing links with the International Criminal Police Organization (ICPO/Interpol). Qatar concluded by stressing that the prevention of organized crime and terrorist crimes should not remain an issue addressed solely by law enforcement agencies, but that the question required far-reaching cooperation between countries. The United Nations crime prevention and criminal justice programme constituted the appropriate framework for such activities, in addition to utilizing the services provided by ICPO/Interpol, with the cooperation of society at large and the media.

35. The Republic of Korea stated that it was considering the establishment of institutional or policy measures to deal with the growing danger posed by links between terrorist crimes and transnational organized crime.

36. Spain stated that already in the Naples Political Declaration and Global Action Plan (A/49/748, annex), the World Ministerial Conference on Organized Transnational Crime had stressed that close links existed between organized transnational crime and terrorism and that it would not be wrong to refer to the latter as another form of transnational crime. Therefore, Spain considered the establishment of an intergovernmental

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*The part of the analysis provided by Qatar on transnational organized crime is reflected in the report of the Secretary-General on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (E/CN.15/1996/2).

working group to be highly positive. In addition to proposals that the working group should adopt a regional approach and should make use of the experience accumulated by the Council of Europe group on organized crime, Spain suggested that the intergovernmental working group should consider the legal, organizational and strategic framework of measures to combat that phenomenon and that national trends and criminal groups should also be studied. Spain suggested that the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders should include in its agenda an item on links between terrorist crimes and transnational organized crime. Finally, with regard to the Declaration on Measures to Eliminate International Terrorism, approved by the General Assembly in its resolution 49/60, Spain expressed the view that such a resolution would not be effective as long as many countries continued to regard purely terrorist acts as political crimes. According to Spain, that point should be taken into consideration as one of the topics to be discussed in future work.

37. According to Turkey, perhaps not all terrorist acts constituted transnational organized crime, since some might be sporadic, individual and not organized. However, terrorist crimes that threatened the territorial integrity and security of States, that were aimed at the destruction of human rights, fundamental freedoms and democracy, that destabilized legally constituted Governments, that undermined a civil pluralist society and that impeded the economic and social development of States were mostly of an organized and transnational nature. The methods used by terrorist groups were almost identical to those resorted to by transnational criminal organizations; examples of those methods included widespread violence, intimidation and corruption. Turkey was of the opinion that, even if differing in their basic motives, transnational organized criminal groups and terrorist groups were becoming more and more similar in terms of their methods, strategies and scope of activities. Links between those two forms of criminality were based on the mutual need for funding their activities or acquiring economic gains. Turkey proposed that a two-layer strategy, at the national and international levels, should be adopted to prevent and control such a dangerous alliance. At the national level, it suggested that legislation should be developed that would make it a criminal offence to engage in terrorist activities, that would provide for sufficient penalties and that would distinguish between terrorist crimes and political offences. Law enforcement personnel should be given specialized training and the victims of terrorism should be afforded special protection and additional compensation, while the cooperation of the media should be sought. Turkey considered international cooperation a *conditio sine qua non* in the effective struggle against terrorist crimes and transnational organized crime. Mutual assistance, extradition of offenders, transfer of proceedings, technical cooperation, assistance in training and exchange of information were among the necessary components of such international cooperation. In order to deal effectively with the complex and multidimensional problems posed by terrorist crimes and organized transnational crime and by the links between them, Turkey proposed that an international conference should be convened under the auspices of the United Nations to prepare an international convention on the subject. Such an international convention would have a number of positive effects, such as providing guidance on the harmonization of law enforcement at the international level and facilitating international cooperation. Turkey also provided extensive information on the criminal activities of a terrorist organization.

38. The United States was not aware of well-established or systematic links between terrorist crimes and transnational organized crime that would be substantial enough to justify either a substantial allocation of the time and resources of the Commission or the drafting of a code of conduct or other international legal instrument even partially devoted to the subject. On the basis of information currently available to the United States Government, it appeared that most transnational organized crime was completely unrelated to terrorist crimes or terrorism. In the view of the United States, while it was true that terrorist groups might finance and otherwise seek to achieve their objectives by means of criminal conduct, just as it was true that criminals (as individuals or members of criminal organizations) might utilize tactics or engage in forms of criminal conduct often associated with terrorists or terrorism, the existence of widespread substantial links between terrorist crimes and transnational organized crime *per se* had not yet been thoroughly established and documented. In some cases, links had been shown to exist and the United States indicated that it would welcome the sharing of information on those links in an appropriate and effective manner among the law enforcement and other responsible authorities of States. However, the United States believed that the

intergovernmental working group at the fifth session of the Commission would be neither an appropriate nor an effective mechanism for such information-sharing. With regard to the possibility of drafting a code of conduct or other legal instrument, the United States believed that discussion of any such potential instrument was premature. Far more information concerning the alleged links was necessary than had been presented to date. After such information was made available by reliable sources, States would then have to reach a consensus that the nature and extent of such links were substantial and widespread enough to justify the attention of the Commission. Even if such a consensus were reached, the proponents of a new international legal instrument in that area would need to outline for States precisely what such an instrument could be expected to accomplish that had not already been addressed in the numerous existing and widely accepted international instruments against various forms of terrorism.

III. RECENT INTERNATIONAL INITIATIVES AGAINST TERRORIST CRIMES

39. In the context of the United Nations crime prevention and criminal justice programme, the issue of terrorism has been dealt with at the technical level rather than at the political level. A strong call for international cooperation against terrorism was made in the Milan Plan of Action,[9] adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan from 26 August to 6 September 1985 and approved by the General Assembly in its resolution 40/32.

40. At the Interregional Preparatory Meeting for the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Vienna from 14 to 18 March 1988, it was determined that, despite some common ground shared by both topics, organized crime and terrorism were distinct phenomena that should not be confused (A/CONF.144/IPM.2, para. 16).* The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana from 27 August to 7 September 1990, adopted a resolution on terrorist criminal activities,[10] in the annex to which a number of measures were recommended for more effective international cooperation against terrorism. The Eighth Congress stated that, without prejudice to the discussion of the subject in the General Assembly and until such time as a universally acceptable definition of international terrorism was agreed, it would be useful to identify behaviour that the international community regarded as unacceptable and that required the application of effective preventive and repressive measures consistent with international law.[11]

41. The Eighth Congress was of the opinion that existing international norms might not be sufficient to control terrorist violence. Among the issues of concern were: State policies and practices that might be considered a violation of international treaty obligations; the absence of specific norms on State responsibility to carry out international obligations; the abuse of diplomatic immunity; the absence of norms concerning State responsibility for acts not prohibited by international law; the absence of international regulation and control of the traffic in arms; the inadequacy of international mechanisms for the peaceful resolution of conflicts and the protection of human rights; the lack of universal acceptance of the principle *aut dedere aut judicare*; and the shortcomings of international cooperation in preventing and controlling terrorist violence.[12]

42. The Eighth Congress recommended that effective measures should be developed for international cooperation in the prevention of terrorist violence, including: cooperation between law enforcement agencies, prosecutors and the judiciary; integration of the various agencies responsible for law enforcement and criminal justice; inter-State cooperation in criminal matters; education and training of law enforcement personnel; and educational and public awareness programmes through the mass media. The Eighth Congress also recommended that greater uniformity in the laws and practices of States concerning criminal jurisdiction should be encouraged and that States should develop and implement international extradition treaties,

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*See also the working paper prepared by the Secretariat on effective national and international action against: (a) rganized crime; (b) terrorist criminal activities (A/CONF.144/15).

according to which the political offence exception should not be a bar to extradition for crimes of terrorist violence except when the requested State submitted the case to its competent authorities for prosecution or transferred the case to another State for prosecution.[13]

43. The Eighth Congress encouraged States to lend each other the widest possible mutual assistance and cooperation in penal matters. It noted that the prevention and control of terrorist violence depended on mutual cooperation and assistance between States in securing evidence for the prosecution or extradition of terrorists. Terrorist violence supported, carried out or acquiesced to by States should be more effectively curbed by the international community, and the United Nations should develop mechanisms for the control of such conduct. The Eighth Congress also recommended that the feasibility of the development of an international convention to protect targets that were particularly vulnerable, the destruction of which would cause great harm to populations or society, should be studied. It recommended that States should develop national legislation for the control of weapons, ammunition and explosives that might be used for terrorist purposes and that international regulations on the transfer, import, export and storage of such materials should be developed so that customs and border controls could be harmonized. The Eighth Congress also recommended that States should adopt measures or mechanisms for the protection of the judiciary, criminal justice personnel, victims and witnesses in cases involving terrorism. The Eighth Congress recommended that the International Law Commission should be encouraged to continue to explore the possibility of establishing an international criminal court to have jurisdiction over persons who had committed offences connected with terrorism. In addition, the Eighth Congress urged States to accede to, ratify and enforce international conventions prohibiting terrorist violence.[14]

44. The General Assembly, in its resolution 49/60, adopted the Declaration on Measures to Eliminate International Terrorism, annexed to that resolution. In the Declaration, Member States solemnly reaffirmed their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed. Member States declared that acts, methods and practices of terrorism constituted a grave violation of the purposes and principles of the United Nations and might pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society. Member States also declared that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes were in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that might be invoked to justify them.

45. In the Declaration, States were urged to take effective and resolute measures for the speedy and final elimination of international terrorism, in particular: (a) to refrain from organizing, instigating, facilitating, financing, encouraging or tolerating terrorist activities and to ensure that their respective territories were not used for terrorist installations or training camps, or for the preparation or organization of terrorist acts intended to be committed against other States or their citizens; (b) to ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts; (c) to endeavour to conclude special agreements to that effect on a bilateral, regional and multilateral basis and to prepare, to that effect, model agreements on cooperation; (d) to cooperate with one another in exchanging relevant information concerning the prevention and combating of terrorism; (e) to implement existing international conventions on that subject to which they were parties, including the harmonization of their domestic legislation with those conventions; (f) to take appropriate measures, before granting asylum, for the purpose of ensuring that the asylum seeker had not engaged in terrorist activities, and after granting asylum, for the purpose of ensuring that the refugee status was not used for engaging in or preparing for terrorist activities. States were also encouraged to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there was a comprehensive legal framework covering all aspects of the matter.

46. Also in the Declaration, Member States declared that the United Nations must make every effort with a view to promoting measures to combat and eliminate acts of terrorism and to strengthening its role in that field. They recommended that the Secretary-General should assist in the implementation of the Declaration: (a) by collecting data on the status and implementation of existing multilateral, regional and bilateral agreements relating to international terrorism, including information on incidents caused by international terrorism and criminal prosecutions and sentencing; (b) by creating a compendium of national laws and regulations regarding the prevention and suppression of international terrorism in all its forms and manifestations; (c) by carrying out an analytical review of existing international legal instruments relating to international terrorism, in order to assist States in identifying aspects of that matter that had not been covered by such instruments and that could be addressed to develop further a comprehensive legal framework of conventions dealing with international terrorism; and (d) carrying out a review of existing possibilities within the United Nations system for assisting States in organizing workshops and training courses on combating crimes connected with international terrorism.

47. The General Assembly, in its resolution 50/53, reaffirmed the Declaration and urged all States to promote and implement effectively and in good faith the provisions of the Declaration in all its aspects. States were also urged to strengthen cooperation with one another to ensure that those who participated in terrorist activities, whatever the nature of their participation, found no safe haven anywhere. The Assembly recalled the role of the Security Council in combating international terrorism whenever it posed a threat to international peace and security. In the same resolution, the Assembly requested the Secretary-General to follow up closely the implementation of the Declaration and to submit annual reports on the implementation of paragraph 10 of the Declaration.

48. In December 1995, the Ottawa ministerial declaration on countering terrorism was adopted, pursuant to an agreement by the heads of State or Government of the Group of Seven major industrialized countries and the President of the European Commission at the twenty-first annual summit, held at Halifax, Canada, from 15 to 17 June 1995. The ministers exchanged views on major terrorist events, including the Tokyo underground attacks, the bombing at Oklahoma City, the hostage-taking at Budennovsk, major terrorist attacks (including the assassination of Yitzhak Rabin) aimed at disrupting the peace process in the Middle East, the persistent attacks by the Euzkadi ta Askatasuma (ETA), the bombing campaign in France and bombings at Riyadh and Islamabad. They concluded that those and other events reflected a number of trends, including an upsurge in domestic terrorism, an increase in hostage-taking and indiscriminate violence by religious extremists and apocalyptic groups, as well as attacks on tourists and export of regional conflicts. Those trends had been accompanied by the continued use of conventional weapons and by a new and worrying development: the use of non-conventional weapons such as chemical weapons. While offering dialogue to those who rejected violence and respected the law, the ministers declared that those who attempted to achieve their aims through violence would meet with the strongest resolve and would be held accountable for their acts. The ministers expressed their determination to work together in the international community, in all entities of the United Nations system, including the General Assembly, and in all other appropriate forums to identify and adopt practical measures to fight terrorism, including where necessary legal instruments.

49. The ministers declared that they were determined as a group to continue to provide to the international community leadership on the issue of terrorism, using bilateral and multilateral measures and agreements to counter terrorism and continuing to develop specific, cooperative measures to detect, prevent and investigate terrorist acts and to bring terrorists to justice. The ministers called on all States to strive to join existing international treaties on terrorism by the year 2000 and to strengthen and promote bilateral or international extradition and mutual assistance arrangements, as well as to consider the adoption of additional instruments. The ministers declared their intention to strengthen the sharing of intelligence and other information on terrorism and to pursue measures to prevent terrorist use of nuclear, chemical and biological weapons. Urging all States to refuse to make substantive concessions to persons taking hostages and to ensure that those responsible were brought to justice, the ministers agreed to cooperate in order to inhibit the movement of terrorists and to enhance measures to prevent the falsification of documents. The ministers also agreed to

work together and with others in order to strengthen the protection of aviation, maritime and other transportation systems against terrorism and to counter terrorist attacks against public facilities and infrastructure. Finally, the ministers agreed to increase training and assistance aimed at countering terrorism and to pursue measures aimed at depriving terrorists of their sources of finance, encouraging States to take action in order to prevent terrorists from raising funds and to explore the means of tracking and freezing assets used by terrorists.

50. The Summit of the Peacemakers, held at Sharm el-Sheikh, Egypt, on 13 March 1996, had three fundamental objectives: to enhance the peace process in the Middle East, to promote security and to combat terror. Accordingly, the participants re-emphasized their strong condemnation of all acts of terror in all its abhorrent forms, whatever its motivation and whoever its perpetrator, considered them alien to the moral and spiritual values shared by all the peoples of the region, and reaffirmed their intention to stand staunchly against all such acts and to urge all Governments to join them in their condemnation of and opposition to such acts. The participants decided, *inter alia*, to promote the coordination of efforts to stop acts of terror at the bilateral, regional and international levels, ensuring that instigators of such acts were brought to justice, supporting efforts by all parties to prevent their territories from being used for terrorist purposes and preventing terrorist organizations from engaging in recruitment, supplying arms or fund-raising. They also decided to exert maximum effort to identify the sources of financing for terrorist groups and to cooperate in cutting them off and in providing training, equipment and other forms of support to those taking steps against groups using violence and terror to undermine peace, security or stability. Finally, the participants decided to form a working group to prepare recommendations on how best to implement the decisions of the Summit.

51. The second Inter-Parliamentary Conference on Security and Cooperation in the Mediterranean, organized by the Inter-Parliamentary Union at Valletta, Malta, in November 1995, dealt with the issue of terrorism. The Conference urged the Mediterranean States to strengthen cooperation between them with a view to combating terrorism, stressing that such coordinated action would be more effective if it drew on the European Convention on the Suppression of Terrorism.[15] That effectiveness would also be enhanced by the implementation of the resolutions of the Ninth Congress and by the adoption by parliaments of the Model Treaty on Extradition (General Assembly resolution 45/116, annex). The Conference took account of progress made in the technologies used by terrorists since the adoption of the European Convention in 1977. The Conference also called on Mediterranean States to draft a convention on the fight against terrorism and on the extradition of terrorists, which would provide for political and economic measures against States directly or indirectly engaged in terrorism.

IV. CONCLUSION

52. The international community is faced with the growing dangers of both organized transnational crime and terrorist crimes, not only in terms of their occurrences but, most importantly, in terms of their significance, impact and threat to security and stability and to the rule of law, which are fundamental for social and economic development. Links between organized transnational crime and terrorist crimes appear to be more circumstantial than institutional. However, both of these forms of criminal activity pose a formidable challenge to Governments. Effective action against both forms of crime can only be achieved through international cooperation that goes beyond the declaratory stage, using the important global commitments of the international community as a platform for rapid and concrete action.

53. Ways and means of carrying out intra-State cooperation have doubtless been developed and have been further refined in recent years. However, these modalities have not been able to keep up with the pace of international movement of criminal assets, the possibilities afforded by instant and increasingly secure communication through electronic channels, and the ability of terrorists and members of organized criminal syndicates to pass undetected through border crossings incapable of dealing with vast numbers of people. The combination of problems posed by geographical borders and divergent legal and political systems make

the fight against transnational terrorism and organized crime a complicated matter. Fundamental to any progress in this area is international consensus on the modalities of international cooperation. Such a consensus is a prerequisite for overcoming legal and conceptual impediments to more effective action. The prospects for overcoming those impediments have improved since the end of the cold war. Today there is greater commonality of values, coupled with an awareness of the need for global action to solve global problems. As the Secretary-General stated at the Summit of Peacemakers, the United Nations is the forum where a foundation for global action is being built and is ready to serve as a mechanism for mobilization on a global scale against terrorism.

Notes

[1]*Report of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Cairo, 29 April-8 May 1995* (A/CONF.169/16/Rev.1), chap. I. The report will subsequently be issued as a United Nations sales publication.

[2]United States of America, Department of State, *Patterns of Global Terrorism*, 1994 (Washington, D.C., Office of the Coordinator for Counterterrorism, April 1995), p. 1.

[3]Peter Benesh, *Pittsburgh Post-Gazette*, 24-28 September 1995.

[4]*NRC Handelsblad*, 18 January 1996, p. 5.

[5]P. Duyne, "Crime-enterprises and the legitimate industry in the Netherlands", C. Fijnaut and J. Jacobs, eds., *Organized Crime and Its Containment: a Transatlantic Initiative* (Deventer, Kluwer, 1991), p. 62.

[6]R. T. Naylor, "The insurgent economy: black market operations of guerrilla organizations", *Crime, Law and Social Change*, vol. 20, July 1993, p. 20.

[7]See P. Lupsha, "Organized crime", William G. Bailey, ed., *The Encyclopedia of Police Science*, 2nd ed. (New York, Garland, 1995), pp. 494-495.

[8]*Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

[9]*Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

[10]*Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.25.

[11]Ibid., sect. C.25, annex, para. 2.

[12]Ibid., sect. C.25, annex, para. 4.

[13]Ibid., sect. C.25, annex, paras. 5-9.

[14]Ibid., sect. C.25, annex, paras. 13-34.

[15]United Nations, *Treaty Series*, vol. 1137, No. 17828.